

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

DAVID ALLEN TEBBETTS, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
v.	)	CASE NO. 2:07-cv-925-MEF
	)	
BLUE CROSS BLUE SHIELD OF	)	
ALABAMA, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER**

Since this case was removed to this Court on October 15, 2007, the parties have filed a number of motions. Defendant Blue Cross Blue Shield of Alabama filed a motion to dismiss or in the alternative for summary judgment. *See* Doc. # 5. Defendant CareCore LLC filed its own motion to dismiss or in the alternative motion for summary judgment which also included a motion to strike the jury demand. *See* Doc. # 8. Plaintiffs filed a motion to remand based both on an alleged procedural deficiency in the Notice of Removal and on an argument that this Court lacks subject matter jurisdiction over this action. *See* Doc. # 10. Before this Court had seen the motion to remand, it entered an Order setting a briefing schedule on Defendant Blue Cross Blue Shield of Alabama's dispositive motion. *See* Doc. # 11. After receiving that Order, Plaintiffs filed a motion to hold Defendants' dispositive motions in abeyance pending resolution of the subject matter jurisdiction issues raised by the motion to remand. *See* Doc. # 15. Plaintiffs also filed a motion in which they seek leave to conduct jurisdictional discovery into other possible grounds for a later motion to remand if

the Court denies the motion to remand now pending. *See* Doc. # 13.

In this Court's view, it must first address the Motion to Remand (Doc. # 9) now pending once it is under submission. This Court will not consider the dispositive motions now pending until after it ascertains that it does in fact have subject matter jurisdiction over this action. Additionally, the Court is not inclined to address Plaintiffs' request for jurisdictional discovery, which Plaintiffs only want if their pending motion to remand is not successful, until after it rules on the Motion to Remand currently pending. Accordingly, it is hereby ORDERED as follows:

1. The Blue Cross and Blue Shield of Alabama's Motion to Dismiss Plaintiffs' Complaint or, in the Alternative, Motion for Summary Judgment and Motion to Strike Jury Demand (Doc. # 5) is DENIED without prejudice. Defendant Blue Cross and Blue Shield of Alabama may file a its dispositive motion after the Court has ruled on the Court's subject matter jurisdiction in this case.

2. The Motion to Dismiss, or in the Alternative, Motion for Summary Judgment and Motion to Strike Jury Demand (Doc. # 8) is DENIED without prejudice. Defendant CareCore National, LLC may file its dispositive motion after the Court has ruled on subject matter jurisdiction.

3. This Court's October 24, 2007 Order (Doc. # 11) is VACATED and all deadlines set by that Order are terminated.

4. The Motion to Hold the Defendants' Merits-Related Motions in Abeyance Pending

Resolution of Subject Matter Jurisdiction and Related Discovery (Doc. # 15) is DENIED as MOOT.

5. The Motion for Leave to Conduct Jurisdictional Discovery (Doc. # 13) is DENIED without prejudice. If this Court denies the currently pending Motion to Remand, Plaintiffs may file a motion seeking leave to conduct jurisdictional discovery at that time.

DONE this the 1<sup>st</sup> day of November, 2007.

/s/ Mark E. Fuller  
CHIEF UNITED STATES DISTRICT JUDGE